IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 11311 of 2004

Between:

A.Lakshmana Rao, S/o.Late Simhadri,
R/o.Bhimavaram, West Godavari.

..... PETITIONER

AND

1 The Sr.Divisional Engineer, Coordination, South Central Railway, Vijayawada, Krishna.
2 The Asst. Divisional Engineer, South Central Railway, Bhimavaram, West Godavari.
3 The Section Engineer (Works) South Central Railway, Bhimavaram, West Godavari.
4 The Sr.Divisional Personnel Officer, South Central Railway, Vijayawada.
5 The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
6 Sri A.Venkateshwara Rao, Asst. Divisional Engineer, South Central Railway, Bhimavaram, West Godavari.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari under Article 226 of the Constitution of India, calling for the records pertaining to O.A.No.571 of 2004, filed by the petitioner before the Hon'ble Central Administrative Tribunal, Hyderabad Bench, and quash the order in O.A.No.571/2004, dated 26/05/2004 and set aside the impugned orders of Transfer passed by the Asst. Divisional Engineer, South Central Railway, Bhimavaram, order No.5/BVRM, dated 11/10/2003 and the decision of the Senior Divisional Engineer/Co-ordination/Vijayawada(BZA) passed on the representations filed by the petitioner on 13/10/2003 and 14/02/2004 up-holding the transfer order dated 11/10/2003 as conveyed to the petitioner by Assistant Divisional Engineer, South Central Railway, Bhimavaram in his letter dated 07/14-05-2004 and further direct the respondents to continue the petitioner as Volveman at Bhimavaram.

Counsel for the Petitioner: MR.P.KRISHNA REDDY

Standing Counsel for the Respondents: MR.A.KRISHNAM RAJU

The Court at the admission stage made the following:
ORAL ORDER: (per GB. J.)

The order passed by the Central Administrative Tribunal (for short Tribunal) in O.A.No.571 of 2004, dated 26.5.2004 is assailed in this Writ Petition.

2. The petitioner was working as Khalasi under Section Engineering Works, Bhimavaram Section. While so he was entrusted with the duties of Volveman. Accordingly he has been working as Volveman. While so he was transferred to Kaikalur by an order dated 11.10.2003. The said order came to be challenged by the petitioner in O.A.No.221 of 2004. One of the contentions raised by the petitioner before the Tribunal was that as he is an office-bearer of a recognized Union, the procedure as contained in Railway Board Circular dated 19.2.1960 and subsequent circulars thereto ought to be followed. But in the instant case since such a procedure was not followed, the order of the Tribunal should be set aside. The Tribunal referring to the said contentions, disposed of the said OA in the following terms:

"In the result, this OA is disposed of by directing the first

respondent to consider the representations submitted by the applicant dated 13.10.2003 and 14.2.2004 by passing appropriate orders within a period of 2 weeks from the date of receipt of a copy of this order. Till then status-quo as on this date to be maintained i.e., if the applicant is not relieved from the duty, he may be allowed to continue in the same place till the final orders are passed and if the applicant is on leave, he may be continued to seek for extension of leave till final orders are passed".

3. After disposal of the above OA., the matter was again considered and an order was passed by the authorities on 7/14.5.2004 in letter No.5/GL/Court confirming his transfer to Kaikalur. Challenging the said order again the petitioner filed OA.No.571 of 2004. However, the Tribunal refused to interfere with the said order and dismissed the OA. The petitioner in this Writ Petition assails the said order.

4. The learned counsel for the petitioner submits that there is no proper application of mind by the authorities. On the earlier occasion when the matter was specifically remitted to the authorities to consider the representations filed by the petitioner with reference to the Circulars dated 19.2.1960 as also 17.5.1991, there is total lack of application of mind. Considering this aspect, at least the Tribunal ought to have set aside the order of transfer. He would also submit that the Tribunal has not properly construed the order passed by the Bench on earlier occasion in OA.No.221 of 2004.

5. Mr.A.Krishnam Raju, the learned Standing Counsel appearing for respondents-Railways, submits that the order was passed taking into consideration the contentions now raised by the learned counsel for the petitioner and therefore the order as passed by the learned Tribunal is

quite legal and valid and the same is unassailable.

6. We have heard the learned counsel for the parties at length.

7. The only issue that arises for consideration is whether the transfer order passed by the authorities transferring the petitioner from Bhimavaram to Kaikalur is justified.

8. The principal contention raised in this regard was that the petitioner is the office-bearer of the recognized Union and therefore necessary procedure as contemplated under the Circulars referred to above has to be followed and the Tribunal, on earlier occasion, has clearly pointed out this aspect also and directed the authorities to consider and dispose of the representations by the petitioner. But in the impugned order dated 7.5.2004 we find that there is no reference to the said Circulars and the Tribunal did also not consider this aspect at the subsequent stage when the matter came to be challenged in OA.No.571 of 2004. Under those circumstances we are of the considered view that the matter requires reconsideration by the competent authority keeping in view the Circulars issued by the Railway Board dated 19.2.1960 as also 17.5.1991.

8. Accordingly the Writ Petition is allowed and the order of the Tribunal is set aside, and the matter is remitted back to the authorities concerned. The authorities concerned shall consider the representations of the petitioner dated 13.10.2003 and 14.2.2004 coupled with the Circulars issued by the Railway Board dated 19.2.1960 and 17.5.1991 and pass a reasoned order within a period of six (06) weeks from the date of receipt of a copy of this order. No costs.

(G.BIKSHAPATHY, J.)

6th July, 2004.

(B.SESHASAYANA REDDY, J.)

SSR

Issue copy in three days.
(BO)

One fair copy to the Hon'ble Sri Justice G.Bikshapathy (for his Lordship's kind perusal)

To

1 The Sr.Divisional Engineer, Coordination, South Central Railway,Vijayawada, Krishna.
2 The Asst. Divisional Engineer, South Central Railway, Bhimavaram, West Godavari.
3 The Section Engineer (Works) South Central Railway, Bhimavaram, West Godavari.
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6 Sri A.Venkateshwara Rao, Asst. Divisional Engineer, South Central Railway, Bhimavaram, West Godavari.
7 The Central Administrative Tribunal, Hyderabad.
8 2 CD Copies.